

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 238

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Offered April 12, 2011.

Senate Substitute adopted, April 12, 2011.

Taken up for Perfection April 12 , 2011. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

1042S.04P

## AN ACT

To repeal sections 87.005 and 87.006, RSMo, and to enact in lieu thereof two new sections relating to diseases presumed incurred in the line of duty by firefighters.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 87.005 and 87.006, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 87.005 and 87.006, to read as follows:

87.005. 1. Notwithstanding the provisions of any law to the contrary, after five years' service, any condition of impairment of health caused by any **infectious disease**, disease of the lungs or respiratory tract, hypertension, or disease of the heart resulting in total or partial disability or death to a uniformed member of a paid fire department, who successfully passed a physical examination within five years prior to the time a claim is made for such disability or death, which examination failed to reveal any evidence of such condition, shall be presumed to have been suffered in line of duty, unless the contrary be shown by competent evidence. **In order to receive the presumption that an infectious disease was contracted in the line of duty, the member shall submit to an annual physical examination, at which a blood test is administered.**

2. This section shall apply only to the provisions of chapter 87, RSMo 1959.

3. As used in this section, the term "infectious disease" means the

16 **human immunodeficiency virus, acquired immunodeficiency syndrome,**  
17 **tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D,**  
18 **diphtheria, meningococcal meningitis, methicillin-resistant**  
19 **staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**  
20 **acute respiratory syndrome.**

87.006. 1. Notwithstanding the provisions of any law to the contrary, and  
2 only for the purpose of computing retirement benefits provided by an established  
3 retirement plan, after five years' service, any condition of impairment of health  
4 caused by any **infectious disease**, disease of the lungs or respiratory tract,  
5 hypotension, hypertension, or disease of the heart resulting in total or partial  
6 disability or death to a uniformed member of a paid fire department, who  
7 successfully passed a physical examination within five years prior to the time a  
8 claim is made for such disability or death, which examination failed to reveal any  
9 evidence of such condition, shall be presumed to have been suffered in the line  
10 of duty, unless the contrary be shown by competent evidence. **In order to**  
11 **receive the presumption that an infectious disease was contracted in**  
12 **the line of duty, the member shall submit to an annual physical**  
13 **examination, at which a blood test is administered.**

14 2. Any condition of cancer affecting the skin or the central nervous,  
15 lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular,  
16 genitourinary, liver or prostate systems, as well as any condition of cancer which  
17 may result from exposure to heat or radiation or to a known or suspected  
18 carcinogen as determined by the International Agency for Research on Cancer,  
19 which results in the total or partial disability or death to a uniformed member of  
20 a paid fire department who successfully passed a physical examination within five  
21 years prior to the time a claim is made for disability or death, which examination  
22 failed to reveal any evidence of such condition, shall be presumed to have been  
23 suffered in the line of duty unless the contrary be shown by competent evidence  
24 and it can be proven to a reasonable degree of medical certainty that the  
25 condition did not result nor was contributed to by the voluntary use of tobacco.

26 3. This section shall apply to paid members of all fire departments of all  
27 counties, cities, towns, fire districts, and other governmental units.

28 4. **As used in this section, the term "infectious disease" means the**  
29 **human immunodeficiency virus, acquired immunodeficiency syndrome,**  
30 **tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D,**  
31 **diphtheria, meningococcal meningitis, methicillin-resistant**

32 **staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**  
33 **acute respiratory syndrome.**

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